

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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BRYANT WHEELER,

Plaintiff,

v.

T. ABATE, BEVIER, M. IMPASTATO, G. BARNES,  
C. SCHULTZ, T. AULT, R. CIOFFA, M. NULL,  
SCRANTON, J. CAREY, SULLIVAN, V. BAILEY,  
MOTT,

Defendants.

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**ORDER**

**09-CV-618F**

Plaintiff has filed a *pro se* complaint under 42 U.S.C. § 1983 and has requested appointment of counsel pursuant to 28 U.S.C. § 1915(e)(1) (Doc. No. 40). This Court is required to see that all litigants receive proper representation of counsel under the criteria set forth in Cooper v. A. Sargenti Co., 877 F.2d 170 (2d Cir. 1989), and Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986). In addition, courts have the inherent authority to assign counsel to represent private indigent litigants. See In re Smiley, 36 N.Y.2d 433, 438 (1975).

More importantly, each lawyer — especially those who are admitted to practice in federal court and who therefore are in a position to reap the benefits of such practice — has an ethical obligation under the Code of Professional Responsibility to provide *pro bono* services for the poor. New York Code of Professional Responsibility, Canon 2, EC 2-16; EC 2-25. "Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged." EC 2-25. In addition, Rule 83.1(g) of the Local Rules of Civil Procedure provides as follows:

Every member of the bar of this Court shall be available upon the Court's request for appointment to represent or

assist in the representation of indigent parties.  
Appointments under this rule shall be made in a manner  
such that no attorney shall be requested to accept more  
than one appointment during any twelve month period.

It is in this spirit that the Court assigns Salvatore P. Abbate, Esq., 215  
Breckenridge Avenue, Buffalo, New York, 14213, 716-881-4256, *pro bono*, to faithfully  
and diligently represent plaintiff in this case.

The Clerk of the Court is directed to copy the file in this matter and send it to Mr.  
Abbate, together with a copy of this order and the Guidelines Governing  
Reimbursement from the District Court Fund of Expenses Incurred by Court Appointed  
Counsel.<sup>1</sup>

SO ORDERED.

*/s/ Leslie G. Foschio*

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LESLIE G. FOSCHIO  
UNITED STATES MAGISTRATE JUDGE

Dated: January 10, 2011  
Buffalo, New York

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<sup>1</sup>This information and the forms are also available on the Court's web site at the Attorney  
Information link from the home page located at <<http://www.nywd.uscourts.gov/>>.